

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOTISLA SAHOLAY BEST,

Plaintiff,
-against-

ACS, *et al.*,

Defendants.

23-CV-3017 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff is proceeding *pro se* and *in forma pauperis* in this matter. By order dated June 26, 2023, the Court directed Plaintiff, within 60 days, to file a second amended complaint, because the original and first amended complaints did not comply with federal pleading rules. That order specified that failure to comply would result in dismissal of the action. Plaintiff has not filed a second amended complaint. Instead, on August 8, 2023, Plaintiff filed “an emergency request that marshals serve warrant” and a supporting declaration, which are not responsive to the June 26, 2023 order to amend. (ECF 11, 12.) Plaintiff also attempted to submit additional documents via email, but they were confusing and could not be docketed.

The motion to have the U.S. Marshals serve a warrant is denied. The Court grants Plaintiff an extension of time to comply with the June 26, 2023 order to amend. Plaintiff is directed to file a second amended complaint within 30 days of the date of this order. If Plaintiff fails to comply within the time allowed, and she cannot show good cause to excuse such failure, the first amended complaint will be dismissed for failure to state a claim upon which relief may be granted.

Additionally, the docket shows that that every order that the Clerk’s Office has mailed to Plaintiff has been returned as undeliverable. Plaintiff’s most recent filings, on August 8, 2023, bear the same address, but for reasons unclear to the Court, the mail is consistently being

returned. The Court therefore directs Plaintiff, within 30 days of the date of this order, to notify the Court in writing of her current address. Plaintiff has the option of consenting to receive electronic service of documents to an email address if she can receive documents by email. A form for Plaintiff to complete and return to the Court within 30 days if he wishes to consent to electronic service of documents by email is attached to this order.

CONCLUSION

The motion to have the U.S. Marshals serve a warrant is denied. The Clerk of Court is directed to terminate that motion (ECF 11) and all other pending applications. Plaintiff is directed, within 60 days, to: (1) file a second amended complaint that complies with the June 26, 2023 order to amend; and (2) either provide a valid mailing address, or consent to electronic service. A consent to e-service form is attached for Plaintiff's convenience.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when she seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: August 15, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature



**United States District Court
Southern District of New York**

Pro Se (Nonprisoner) Consent to Receive Documents Electronically

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER¹ at www.pacer.uscourts.gov or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail.² Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

IMPORTANT NOTICE

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.³

¹ Public Access to Court Electronic Records (PACER) (www.pacer.uscourts.gov) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

² You must review the Court’s actual order, decree, or judgment and not rely on the description in the email notice alone. See ECF Rule 4.3

³ The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.

PRO SE INTAKE WINDOW LOCATIONS:

40 FOLEY SQUARE | NEW YORK, NY 10007
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

MAILING ADDRESS:

500 PEARL STREET | NEW YORK, NY 10007
PRO SE INTAKE UNIT: 212-805-0136